

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

KENNETH EUGENE SMITH,

Plaintiff,

V.

Case No. 2:23-cv-00656-RAH

JOHN Q. HAMM,  
Commissioner of the Alabama  
Department of Corrections,

and

TERRY RAYBON, Warden,  
Holman Correctional Facility,

Defendants.

**KIM VAN PELT'S MOTION TO AMEND JUDGMENT  
TO CLARIFY DOCUMENTS TO BE PRODUCED**

In its order denying Mr. Van Pelt's motion to intervene, this Court ordered Defendants to produce three documents because Defendants did not object to their unsealing. [ECF Doc. 106]. Yet, Defendants' response to the Court's previous order [ECF Doc. 100] did not object to all the documents Mr. Van Pelt requested. Mr. Van Pelt requests, under Federal Rule of Civil Procedure 59, this Court amend its judgment to clarify that he is entitled to all the documents Defendants did not object to producing.

1. After the hearing on Mr. Van Pelt's motion to intervene, this Court ordered Defendants provide a list of documents that were sealed or redacted pursuant to the

Protective Order or marked “Confidential,” and explain whether Defendants wanted those documents to remain sealed. [ECF Doc. 100].

2. Defendants submitted the report, which included several documents,<sup>1</sup> and listing three documents it stated could be disclosed. [ECF Doc. 103, pp. 6, 8].

3. It is not clear either from Defendants’ response or from this Court’s Order whether the documents not listed were ever under seal or otherwise labeled confidential.

4. As of the date of this filing, undersigned counsel attempted to access the documents not listed in Defendants’ response electronically through PACER and could not access them.

5. Mr. Van Pelt respectfully requests this Court amend its order to clarify that all documents not listed in Defendants’ response as covered by the Protective Order be made publicly available, either through the Clerk’s office on the PACER system or by Defendants.

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<sup>1</sup> Defendants objected to releasing the following from Plaintiff’s Hearing Exhibits: Exhibits 1, 26, 27, 30-31, 33-34, 36-37, and 47-50; they objected to releasing Defendants’ Hearing Exhibits 1, 2, 12-23, and 45-52.

Respectfully submitted,

**/s/John Palombi**

John Palombi  
Kentucky Bar No. 86784

**/s/ Spencer J. Hahn**

Spencer J. Hahn  
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*Counsel for Mr. Van Pelt*

**CERTIFICATE OF SERVICE**

I certify that on the 14th day of May 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and counsel for Plaintiffs and Defendants were served by the CM/ECF system.

**/s/ John Palombi**